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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 ROBERT CSECH,

9 Plaintiff,

Case No. 3:13-cv-00289-MMD-VPC

10 v.
11 JOHN PERRY, et al.,

12 Defendants.

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
VALERIE P. COOKE

13 Before the Court is the Report and Recommendation of Magistrate Judge Valerie
14 P. Cooke (“R&R”) entered on July 17, 2014, recommending that Plaintiff’s Motion for
15 Summary Judgment (dkt. no. 16) be denied without prejudice and with leave to refile.
16 (Dkt. no. 36.) Plaintiff filed a response to state he accepts the Magistrate Judge’s
17 recommendation. (Dkt. no. 37.)

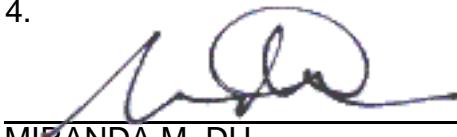
18 This Court “may accept, reject, or modify, in whole or in part, the findings or
19 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely
20 objects to a magistrate judge’s report and recommendation, then the court is required to
21 “make a *de novo* determination of those portions of the [report and recommendation] to
22 which objection is made.” *Id.* Where a party fails to object, however, the court is not
23 required to conduct “any review at all . . . of any issue that is not the subject of an
24 objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has
25 recognized that a district court is not required to review a magistrate judge’s report and
26 recommendation where no objections have been filed. See *United States v. Reyna-*
27 *Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by
28 the district court when reviewing a report and recommendation to which no objections

were made). Thus, if there is no objection to a magistrate judge's recommendation, then the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to which no objection was filed). As noted, Plaintiff indicated that he does not object to the Magistrate Judge's recommendation. Nevertheless, the Court finds it appropriate to engage in a *de novo* review of all issues to determine whether to adopt Judge Cooke's R&R.

Plaintiff filed this 42 U.S.C. § 1983 civil rights action seeking redress for the denial of medical care in violation of his Eighth Amendment rights. (See dkt. no. 4.) Defendants filed a partial motion to dismiss for failure to state a claim against Hastings and McDaniel on January 16, 2014. (Dkt. no. 13.) On January 29, 2014, Plaintiff filed a motion for summary judgment ("Motion"). (Dkt. no. 16.) Briefing was stayed on Plaintiff's Motion pending decision on Defendants' motion to dismiss. (Dkt. no. 26.) On July 8, 2014, the Court accepted the Magistrate Judge's R&R, thereby granting Defendants' partial motion to dismiss. (Dkt. no. 34.) Thus, Plaintiff's claims against Defendant Nathan Hastings have been dismissed with prejudice and Plaintiff's claims against Defendant E.K. McDaniel have been dismissed without prejudice. (*Id.*) Following the dismissal of these two defendants, portions of Plaintiff's Motion are now moot. Accordingly, the Magistrate Judge recommends denial of Plaintiff's Motion without prejudice and with leave to refile, if necessary. The Court agrees.

It is hereby ordered that the Magistrate Judge Valerie Cooke's Report and Recommendation ("R&R") (dkt. no. 36) that plaintiff's motion for summary Judgment (dkt. no. 16) be denied without prejudice and with leave to refile is accepted and adopted in its entirety.

DATED THIS 10th day of September 2014.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE